



BILL NO. 16

Government Bill

*2nd Session, 61st General Assembly
Nova Scotia
59 Elizabeth II, 2010*

An Act to Amend Chapter 450 of the Revised Statutes, 1989, the Summary Proceedings Act

CHAPTER 26
ACTS OF 2010

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 11, 2010**

The Honourable Ross Landry
Minister of Justice

*Halifax, Nova Scotia
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**An Act to Amend Chapter 450
of the Revised Statutes, 1989,
the Summary Proceedings Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 7A of Chapter 450 of the Revised Statutes, 1989, the *Summary Proceedings Act*, as enacted by Chapter 45 of the Acts of 1993, is amended by

(a) adding “the sending of the summons by registered mail” immediately before “is” the first time it appears in the fourth line; and

(b) adding “of the summons without proof of delivery or acceptance” immediately after “delivery” in the last line.

2 (1) Subsection 8(3) of Chapter 450 is amended by adding immediately after clause (a) the following clauses:

(aa) prescribing the form of a plea of guilty on a summons;

(ab) prescribing the form of the notice of intention to appear for the purpose of pleading guilty to an offence and making a submission as to penalty;

(ac) prescribing the form of the notice of intention to appear for the purpose of entering a plea of not guilty and having a trial of a matter;

(ad) prescribing the form of the certificate of a justice striking out a conviction;

(ae) prescribing the fee for an application to strike out the conviction pursuant to subsection (18);

(2) Section 8 of Chapter 450, as amended by Chapter 45 of the Acts of 1993, Chapter 18 of the Acts of 1994-95, Chapter 8 of the Acts of 1999 (Second Session), Chapter 4 of the Acts of 2000, Chapter 5 of the Acts of 2001, Chapter 2 of the Acts of 2006 and Chapter 4 of the Acts of 2008, is further amended by adding immediately after subsection (13) the following subsections:

(13A) A person who is served with a ticket summons shall

(a) where the person does not wish to dispute the charge,

(i) sign the plea of guilty on the summons and, within the time specified in the summons, deliver the summons and amount of the penalty specified in the summons to any Provincial Court office in the Province, or

(ii) where the person wishes to make a submission as to penalty, including the extension of time for payment, file in prescribed form, within the time specified in the summons, with the clerk of the court a notice of intention to appear for the purpose of pleading guilty to the offence and making a submission as to penalty; or

(b) where the person wishes to dispute the charge,

(i) file in prescribed form, within the time specified in the summons, with the clerk of the court a notice of intention to appear in court for the purpose of entering a plea of not guilty and having a trial of the matter, and

(ii) include in the form the person's mailing address, telephone number, facsimile number and electronic mail address.

(13B) Where a person has delivered a notice of intention to appear in accordance with subsection (13A),

(a) the clerk of the court shall, as soon as practical, give notice to the person and the prosecutor of the time and place of the trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty; and

(b) the person shall attend at the time and place specified in the notice.

(13C) The clerk of the court may send a notice to a person by mail, facsimile or electronic mail and, where the notice is sent to the person by mail, facsimile or electronic mail, the notice is deemed to have been received by the person.

(13D) Acceptance by the court office of payment under subclause (i) of clause (a) of subsection (13A) constitutes a plea of guilty whether or not the plea is signed and the endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount specified in the summons for the offence.

(13E) A justice may require a submission as to penalty to be made orally under oath or by affidavit.

(13F) A signature on a ticket summons or notice of intention to appear purporting to be that of the defendant is proof, in the absence of evidence to the contrary, that it is the signature of the defendant.

(3) Subsection 8(15) of Chapter 450 is repealed and the following subsections substituted:

(15) Where a person is served with a ticket summons and the person has not acted within the time specified in the summons as required by subsection (13A) or where a person who has given notice of an intention to appear fails to appear at the time and place appointed for the hearing, the person is deemed to not wish to dispute the charge and a justice shall

(a) where the information portion of the ticket is complete and regular on its face, enter a conviction in the person's absence without a hearing and impose

(i) the minimum penalty authorized by law for the offence or, where another penalty for that offence has been directed by the Attorney General for out of court settlement pursuant to subsection (6), that other penalty, and

(ii) a charge of one hundred and ten dollars and twenty-one cents or, for a parking infraction as defined in subsection (1) of Section 8A, thirty-two dollars and ninety-six cents; or

(b) where the information portion of the ticket is not complete and regular on its face, quash the proceeding and advise the issuing officer that the proceeding has been quashed.

(15A) For greater certainty, where the ticket

(a) indicates that the ticket is for a second or for a third or subsequent offence; and

(b) correctly references the out-of-court settlement amount prescribed for a second or for a third or subsequent offence,

the ticket is sufficient notice to the defendant that an increased penalty may be imposed and, where the information portion of the ticket is complete and regular on its face, a justice, including a justice entering a conviction in a person's absence in accordance with subsection (15), shall impose the increased penalty.

(4) Subsection 8(16) of Chapter 450, as amended by Chapter 18 of the Acts of 1994-95, is further amended by adding “(17A) or” immediately after “subsection” in the last line.

(5) Section 8 of Chapter 450, as amended by Chapter 45 of the Acts of 1993, Chapter 18 of the Acts of 1994-95, Chapter 8 of the Acts of 1999 (Second Session), Chapter 4 of the Acts of 2000, Chapter 5 of the Acts of 2001, Chapter 2 of the Acts of 2006 and Chapter 4 of the Acts of 2008, is further amended by adding immediately after subsection (17) the following subsection:

(17A) Where a person who has been convicted as a result of a failure to act as required by subsection (13A) attends at the court office during regular office hours within sixty days of the conviction and requests that the conviction be struck out, the clerk of the court shall

(a) strike out the conviction;

(b) give the person a certificate of that fact in the prescribed form; and

(c) give the person and the prosecutor notice of the time and place of the trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty.

(6) Subsection 8(18) of Chapter 450 is repealed and the following subsection substituted:

(18) Where a person who has been convicted as a result of a failure to

(a) act as required by subsection (13A) and more than sixty days have elapsed; or

(b) appear at the time and place of the trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty, after having given a notice of intention to appear,

the person may appear before the court and the justice or the judge, as the case may be, upon payment of the prescribed application fee and being satisfied that

(c) the person demonstrates a *prima facie* defence to the offence charged in the ticket;

(d) the person has a reasonable excuse for failing to appear; and

(e) the person acted without unreasonable delay,

shall strike out the conviction, give the person a certificate of that fact in the prescribed form and give the person appearing and the prosecutor a notice of trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty.

3 (1) Subsection 9(2) of Chapter 450 is repealed and the following subsection substituted:

(2) Where a summons is so indorsed, it must provide for a plea of guilty in the form prescribed in the regulations.

(2) Subsection 9(3) of Chapter 450 is repealed.

4 Subsection 10(2) of Chapter 450 is amended by striking out “when the summons would otherwise require that person’s attendance in court” in the last two lines and substituting “ninety days after the day the ticket was issued”.

5 Chapter 450 is further amended by adding immediately after Section 18 the following Section:

19 (1) The Governor in Council may make regulations defining any word or expression used but not defined in this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

6 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
